

KAREN L. LOEFFLER
United States Attorney

AUDREY J. RENSCHEN
Assistant U.S. Attorney
Federal Building & U.S. Courthouse
222 West Seventh Avenue, #9, Room 253
Anchorage, Alaska 99513-7567
(907) 271-5071
(907) 271-1500 (fax)
audrey.renschen@usdoj.gov

RAVI SINHA
Trial Attorney
United States Department of Justice
Criminal Division, Child Exploitation and Obscenity Section
1400 New York Avenue NW, Sixth Floor
Washington, D.C. 20005
202-353-4698 (direct)
ravi.sinha@usdoj.gov

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	No. 3:13-cr-00097-SLG
)	
Plaintiff,)	GOVERNMENT'S SECOND
)	UNOPPOSED MOTION TO
v.)	CONTINUE JURY TRIAL,
)	SCHEDULED JUNE 9, 2014
JASON JAYAVARMAN,)	
)	
Defendant.)	<u>FILED ON SHORTENED TIME</u>
)	

COMES NOW the United States of America, by Assistant United States Attorney Audrey J. Renschen, and Department of Justice Trial Counsel Ravi Sinha, and moves this Court to continue the scheduled June 9, 2014, jury trial.

Procedural History

The Court may remember that on September 10, 2013, this Court granted the Defendant's first unopposed motion to continue trial in this matter. The Court found excludable delay under 18 U.S.C. § 3161(h)(7)(B)(ii), finding the case unusual or complex. (Docket 22)

On February 11, 2014, the United States filed its first motion to continue the March 24, 2014 jury trial. (Docket 46) At a hearing on March 10, 2014, the Court granted the unopposed motion, found excludable delay under 18 U.S.C. § 3161(h)(8), and found by a preponderance of the evidence that an official request defined under 18 U.S.C. § 3292 was made for evidence in a foreign country. The Trial was reset for June 9, 2014. (Docket 49)

Government's Second Motion to Continue Trial

This second request by the Government is similarly based on its first motion to continue trial. As noted during the April 28, 2014, final pretrial conference hearing, the record of which is incorporated here by reference, the Government's first "official request" for evidence in a foreign country – Cambodia -- was made on January 31, 2014. The FBI submitted a letter request to the Cambodian National

Police (CNP). Some documents were produced informally in early April, but the formal response from the CNP had not been received. Since then, some additional documents have been received, but not all of the relevant documents with all of the appropriate certifications.

Accordingly, the Government is asking for an additional continuance of the trial to facilitate gathering those documents and their appropriate certifications.

The United States Department of Justice has approved a Letters Rogatory request, (an official request under 3161(h)(8)), and the FBI is submitting an additional request for more complete and accurate information about the attestation provided by the CNP about the birthdate of an alleged victim in this case.

The United States is moving forward with these requests by combining the two official requests, and simultaneously working on two fronts—through the FBI and through the DOJ's Language Services Section—to obtain a speedy translation of the requesting document into Khmer so that the request can be formally presented to the Kingdom of Cambodia.

The evidence sought by these requests are vital to both the prosecution and defense of this case. Because the identified victim's age is an element of every crime for which Defendant is presently charged, reasonably available documentary evidence of her age—even if unreliable—should be obtained prior to trial. A failure to allow the parties to obtain such evidence—and, thus, for Defendant to have

an opportunity to review the evidence before trial—would constitute a miscarriage of justice and impinge on Defendant’s counsel’s ability to provide constitutionally adequate representation.

Because of the unusual facts in this case; given that the first attempt to obtain the relevant evidence through the CNP took more than 3 months, and is still ongoing; and that the additional official requests are in the process of being translated and officially reviewed; the parties anticipate a delay of at least an additional three months. So October, at this point, seems like a reasonable time frame for trial.

Accordingly, this Court should find these requests toll the Speedy Trial clock, in accordance with 18 U.S.C. § 3161(h)(8), and find by a preponderance of the evidence that an official request, as defined section 3292 of this title has been made for evidence of the offenses charged in this case, and that it reasonably appears that the evidence is in the Kingdom of Cambodia.

Furthermore, in accordance with 18 U.S.C. § 3161(h)(7), the Court should find that the ends served by doing so vastly outweigh the best interest of the public and the defendant in a speedy trial.

In addition, the court should continue to find excludable delay under 18 U.S.C. § 3161(h)(7)(B)(ii), finding the case continues to be so unusual or complex, that it is unreasonable to expect adequate preparation for pretrial

proceedings, or for the trial itself within the time limits established by
18 U.S.C. § 3161.

Undersigned counsel has spoken with defense attorneys Rex Butler and
Vickram Chaobal, most recently the afternoon of Tuesday, 10 June, when Attorney
Chaobal reported that both he and Attorney Butler non-opposed this Motion to
Continue, the proposed new trial date in October, and the filing of this motion on
shortened time.

RESPECTFULLY SUBMITTED, June 5, 2014, in Anchorage, Alaska.

KAREN L. LOEFFLER
United States Attorney

s/ Audrey J. Renschen
AUDREY J. RENSCHEN
Assistant U.S. Attorney
United States of America

s/ Ravi Sinha
RAVI SINHA
Trial Attorney
United States Department of Justice
Criminal Division, Child Exploitation and
Obscenity Section

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2014,
a copy of the foregoing was served
electronically on:

Rex Butler and Vikram Chaobal

s/Audrey J. Renschen
Office of the U.S. Attorney